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IN THE

Supreme Court of the United States

OCTOBER TERM 1964

No. 293

JAKE SHERMAN and JENNIE SHERMAN,
Co-partners, trading under the firm name of
Livernois Auto Parts,
Petitioners,

v.

GOERLICH'S, INC.,
an Ohio corporation, and
IRVING GRAND,
an individual doing business as Grand Sales Company,
jointly, severally and individually,
Respondents.

PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

ADDENDUM TO APPENDIX

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OPINION OF THE COURT OF APPEALS FOR THE SIXTH CIRCUIT

(Filed February 9, 1965)

JAKE SHERMAN and JENNIE SHERMAN, co-partners, trading under the firm name of LIVERNOIS AUTO PARTS,
Plaintiffs-Appellants,
v.
GOERLICH'S, INC., an Ohio corporation, and IRVING GRAND, an individual doing business as GRAND SALES COMPANY, jointly, severally and individually,
Defendants-Appellees.

APPEAL from the District Court of the United States for the Eastern District of Michigan, Southern Division.
No. 15,814

Decided February 9, 1965

Before: EDWARDS, Circuit Judge, WEINMAN, District Judge and MCALLISTER, Senior Circuit Judge.

PER CURIAM. This is a suit for treble damages claiming violations by defendants of the Sherman Antitrust Act, Title 15 U.S.C. §§1 and 2. Defendant relied upon Title 15 U.S.C. §15(b) establishing a four-year period of limitation after "the cause of action accrued."

After extensive pretrial discovery, the District Judge who heard this matter on motion for summary judgment found from the record that the cause of action accrued on or before March 1, 1955, and that suit was started April 26, 1960, and amended June 3, 1963; both dates being well beyond the four-year limitation mandated by Sec. 15(b). He granted summary judgment for defendants.

We find no facts pled by plaintiff which serve to avoid the policy limitation imposed by Sec. 15(b).

In all material respects this case is a companion case to *Garelick v. Goerlich's, Inc.*, 323 F.2d 854 (C.A. 6, 1963), and, as the District Judge held,[1] is controlled by it.

Affirmed.

JUDGMENT OF THE COURT OF APPEALS FOR THE SIXTH CIRCUIT

(Filed February 9, 1965)

Appeal from the United States District Court for the Eastern District of Michigan.

This Cause came on to be heard on the record from the United States District Court for the Eastern District of Michigan, and was argued by counsel.

On Consideration Whereof, It is now here ordered and adjudged by this Court that the judgment of the said District Court in this cause be and the same is hereby affirmed.

It is further ordered that defendants-appellees recover from plaintiffs-appellants the costs on appeal, as itemized below, and that execution therefor issue out of said District Court.

Entered by Order of the Court.

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Clerk

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[1] In unpublished opinion filed December 13, 1963, in the United States District Court for the Eastern District of Michigan, Southern Division.